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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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FRUIT IMPORTERS AMERICAS, INC.,

Plaintiff,

Case No. 11-cv-5651(LDW)(ARL)

-against-

ECF Case

LONG ISLAND BANANA CORP., THOMAS J.
HOEY, individually and in his corporate capacity,
THOMAS J. HOEY, JR., individually and in his
corporate capacity, and DOES 1-10, individually
and in their corporate capacity,

**AMENDED ANSWER TO
COUNTERCLAIM**

Defendants.

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Plaintiff, FRUIT IMPORTERS AMERICAS, INC. (“Fruit Importers”), by its
attorney, Daniel F. Paige, Esq., as and for its Amended Answer to the Counterclaim of the
defendant, LONG ISLAND BANANA CORP. (“LIB”), alleges on information and belief as
follows:

1. Admits the allegations contained in Paragraph 1 of the Counterclaim.
2. Admits the allegations contained in Paragraph 2 of the Counterclaim.
3. Admits the allegations contained in Paragraph 3 of the Counterclaim.
4. Admits the allegations contained in Paragraph 4 of the Counterclaim.

5. Neither admits nor denies the allegations contained in Paragraph 5 of the Counterclaim as they constitute conclusions of law as to which no response is required.

6. Fruit Importers neither admits nor denies the allegations contained in Paragraph 6 of the Counterclaim as they constitute conclusions of law as to which no response is required.

COUNT I

7. Repeats and realleges each and every admission, denial and denial of information contained in Paragraphs 1 – 6 of its Answer to the Counterclaim as if fully set forth herein.

8. Admits that Fruit Importers sold to LIB boxes of bananas, being perishable commodities pursuant to written agreements, but denies the remaining allegations contained in Paragraph 8 of the Counterclaim.

9. Denies the allegations contained in Paragraph 9 of the Counterclaim.

10. Denies the allegations contained in Paragraph 10 of the Counterclaim.

11. Denies the allegations contained in Paragraph 11 of the Counterclaim.

12. Denies the allegations contained in Paragraph 12 of the Counterclaim.

13. Denies the allegations contained in Paragraph 13 of the Counterclaim.

COUNT II

14. Repeats and realleges each and every admission, denial and denial of information contained in Paragraphs 1 – 13 of its Answer to the Counterclaim as if fully set forth herein.

15. Denies the allegations contained in Paragraph 15 of the Counterclaim.

16. Denies the allegations contained in Paragraph 16 of the Counterclaim.

COUNT III

17. Repeats and realleges each and every admission, denial and denial of information contained in Paragraphs 1 – 16 of its Answer to the Counterclaim as if fully set forth herein.

18. Denies the allegations contained in Paragraph 18 of the Counterclaim.

19. Denies the allegations contained in Paragraph 19 of the Counterclaim.

20. Denies the allegations contained in Paragraph 20 of the Counterclaim.

FIRST AFFIRMATIVE DEFENSE

21. Counterclaimant fails to state a claim upon which relief may be granted.

SECOND AFFIRMATIVE DEFENSE

22. Counterclaimant's claims are barred by the doctrine of unclean hands.

THIRD AFFIRMATIVE DEFENSE

23. Counterclaimant's claims are barred by the doctrine of accord and satisfaction.

FOURTH AFFIRMATIVE DEFENSE

24. Counterclaimant's claims are barred by counterclaimant's contributory negligence.

FIFTH AFFIRMATIVE DEFENSE

25. Counterclaimant's claims are barred by the doctrine of estoppel.

SIXTH AFFIRMATIVE DEFENSE

26. Counterclaimant's claims are barred by the doctrine of laches.

SEVENTH AFFIRMATIVE DEFENSE

27. Counterclaimant's claims are barred by the doctrine of waiver.

WHEREFORE, plaintiff Fruit Importers Americas, Inc. prays that this Honorable Court:

- A. Enter judgment dismissing the Counterclaim in its entirety;
- B. Enter judgment granting the relief sought in the plaintiff's complaint;
- C. Enter judgment granting Plaintiff its costs, fees and disbursements incurred in defending the within Counterclaim;
- D. Grant such other and further relief as may be just and proper.

Dated: Newark, New Jersey
January 24, 2012

Respectfully submitted,

/S/

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Certificate of Service

I hereby certify that on January 24, 2012, the foregoing document was filed with the Clerk of the Court and served in accordance with the Federal Rules of Civil Procedure, and/or the Eastern District's Local Rules, and/or the Eastern District's Rules on Electronic Service upon the following parties and participants:

Seth Ptasiewicz, Esq.
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/S/_____
Daniel F. Paige